

**ConocoPhillips****2008 AUG 14 AM 10:00**

P. O. BOX 100360  
ANCHORAGE, ALASKA 99510-0360

Mark A. Major  
Senior Environmental Coordinator  
Telephone 907-265-6136  
Facsimile 907-265-6216

August 14, 2008

Mr. Randy Bates  
Director  
AK Department of Natural Resources (ADNR)  
Division of Ocean and Coastal Management (DCOM)  
P. O. Box 111030  
Juneau, AK 99811-1030

**BY FAX TO (907) 465-3075  
& NEXT DAY UPS DELIVERY**

Subject: Comments on AK Coastal Management Program (ACMP)  
Program Re-Evaluation -- Summer, 2008

Dear Mr. Bates:

ConocoPhillips Alaska, Inc. (CPAI) has reviewed your July 1, 2008 letter on this subject. We have also participated in one of the informational teleconferences hosted by the ADNR-DCOM. We hereby offer the following comments to the ADNR - DCOM on the ACMP re-evaluation activities:

There are 4 areas where specific comments are attached for your review and consideration. These areas are:

- Retention of the current centralized ACMP
- Retention of the ADEC "carve-out"
- Increased utilization of GCDs
- Use of Current CPQ for "A" and "B" listed activities

CPAI appreciates the opportunity for input and comment on this important matter. We look forward to working with the ADNR-DCOM and other ACMP participants as the program re-evaluation continues over time. If you have any questions or desire additional information, please do not hesitate to contact me by e-mail at: [Mark.A.Major@conocophillips.com](mailto:Mark.A.Major@conocophillips.com), by phone at 907-265-6136, or by mail at the letterhead address. Thank you.

Sincerely,



Mark Major  
Senior Environmental Coordinator

Attachments

Post-it® Fax Note 7671		Date <u>8/14/08</u>	# of pages <u>6</u>
To <u>RANDY BATES</u>	From <u>MARK MAJOR</u>		
Co./Dept. <u>ADNR-DCOM</u>	Co. <u>CPAI</u>		
Phone # <u>907-465-8797</u>	Phone # <u>907-265-6136</u>		
Fax # <u>907-465-3075</u>	Fax # <u>907-265-6216</u>		

2008 AUG 14 AM 10: 01

## ACMP Program Re-evaluation Comment Template

Name: Mark Major

Organization: ConocoPhillips Alaska, Inc. (CPAI)

### Statement of Specific Problem:

The ADNDR-DCOM's July 1, 2008 letter regarding the re-evaluation of the ACMP requested input on coastal districts authorities and abilities to write enforceable policies and designate areas to address certain coastal uses and resources. CPAI believes that:

- 1) the ADNDR-DCOM is currently following its statutory and regulatory mandate with respect to coastal district plans and programs;
- 2) any changes in these areas would require regulatory and/or statutory changes; and
- 3) such actions would lead to a decentralized ACMP program over time, which would lead to development decisions that would adversely affect the state's broader interests

### Statutory or Regulatory Citation, if applicable:

AS 46.39.040 (1); 11 AAC 114

### Explain your solution to the problem:

The ADNDR-DCOM should retain a centralized ACMP. Any changes to this situation will ultimately result in a variety of possibly conflicting enforceable policies enacted by coastal districts which will result in the loss of the conformity of district programs and policies that exists with the current ACMP structure. Coastal districts currently can propose enforceable policies so long as such policies meet the requirements of 11 AAC 114.270 (District enforceable policies). They can also designate areas for specific purposes so long as such designations meet the requirements of 11 AAC 114.250 (Subject uses, activities, and designations).

In 2003, the Alaska Legislature found that "the Alaska coastal management program (ACMP) is intended to function with a minimum of delay and avoid regulatory confusion, costly litigation, and uncertainty regarding the feasibility of new investment". Additionally, in 2003, the legislature also stated their intent regarding statewide standards and their applicability to the ACMP. They found that "...the existing statewide standards of the ACMP so that they are clear and concise and provide the needed predictability as to the application, scope, and timing of the consistency review process of the program.". These legislative findings remain as the guiding principles for the ACMP and lead to the necessity of a coordinated, centralized program at the state level.

Proposed changes to these key areas of the ACMP may be influenced by some districts' desires to prevent or otherwise limit selected activities in their coastal district. Some of these activities will undoubtedly involve uses of state concern and/or may involve matters already adequately addressed by existing regulatory programs. Decision making authority concerning the management and use of state resources vests in the state and the ACMP should not allow these types of matters to be added to district plans as enforceable policies or as justification for area designations. Any changes to the criteria for establishment of enforceable policies or designation of areas need to retain the current overall premises and structure of the ACMP.

Explain how this would solve the identified problem:

The ACMP would continue as a centralized regulatory program with consistency in its application throughout the state.

Describe how the change would potentially impact all ACMP participants:

From an applicant's perspective, the retention of a centralized ACMP will provide a measure of certainty and predictability in the permitting process, which is a positive impact. We believe that some other ACMP participants, including some coastal districts, would also support retention of a centralized ACMP and view such an action as a positive impact. While a few participants, including some coastal districts, might view the retention of a centralized ACMP program negatively, additional communication efforts by the ADNR-DCOM regarding the positive aspects of the current regulatory program may alleviate these views.

2008 AUG 14 AM 10:01

## ACMP Program Re-evaluation Comment Template

Name: Mark Major

Organization: ConocoPhillips Alaska, Inc. (CPAI)

### Statement of Specific Problem:

The ADNDR-DCOM requested input on the AK Department of Environmental Conservation (ADEC) carve-out in its July 1, 2008 letter regarding the re-evaluation of the ACMP. CPAI believes the ADEC carve-out should be retained in its present form.

### Statutory or Regulatory Citation, if applicable:

11 AAC 110.010 (d)

### Explain your solution to the problem:

CPAI believes that there is significant misunderstanding by many parties on this matter. Major ADEC approvals and permits still require public notice and comment periods. The ADEC carve-out did not change this regulatory mandate. The ADEC carve-out was implemented to correct differing time lines and regulatory mandates between ADEC regulations and ACMP regulations. ADNDR-DCOM should implement an educational process to better explain the ADEC carve-out, how it works, and what it does and doesn't do from a regulatory perspective.

### Explain how this would solve the identified problem:

The retention of the ADEC carve-out in its present form will not re-introduce the conflicting regulatory mandates of the ADEC and the ACMP that led to the creation of the ADEC carve-out. The suggested educational process would likely eliminate most, if not all, concerns with this situation.

### Describe how the change would potentially impact all ACMP participants:

ACMP participants would have a better understanding of this regulatory situation. This educational measure would demonstrate that adequate environmental protection is still being provided by the ADEC, regardless of whether or not their approvals are part of a consistency review process.

2008 AUG 14 AM 10:01

## ACMP Program Re-evaluation Comment Template

Name: Mark Major

Organization: ConocoPhillips Alaska, Inc. (CPAI)

### Statement of Specific Problem:

The ADNR-DCOM needs to increase the use of generally consistent determinations (GCDs, which are "B" listed items) in the ACMP. There are now many activities which should be added to these lists that have been identified by a variety of applicants and regulatory agencies due to their routine nature and due to the ability to adequately protect the environment by standard alternative measures. Applicants (and agencies) are currently required to go through consistency reviews for activities that can be addressed by GCDs. This situation is creating an inefficient utilization of resources by applicants and regulatory agencies.

### Statutory or Regulatory Citation, if applicable:

AS 46.40.0906 (m)

### Explain your solution to the problem:

Expedite the review and approval of "new" "B" listed items. The effort currently underway by the ADNR-DCOM related to "A" & "B" listed items does not include any new "B" listed items. We recognize the broadening of "A" listed items encompassed by this ongoing effort (and are pleased to see such actions by the ADNR-DCOM) but are still awaiting the publication of new "B" listed items. It is our understanding that 15 to 20 new "B" listed items were to be made available for review the ADNR-DCOM by the end of July, 2008. To date, no such document has been provided.

### Explain how this would solve the identified problem:

Activities that are currently required to undergo a consistency review could be handled by that applicant's agreement to adopt the standard alternative measures specified in a GCD in their activity. This measure would alleviate the resource demand on both entities (i.e. applicants and agencies), allowing all entities to better focus resources on more important matters.

### Describe how the change would potentially impact all ACMP participants:

This suggested change would have essentially no negative impact to all ACMP participants and would allow all parties additional time to address non-routine activities that truly warrant a consistency review.

## ACMP Program Re-evaluation Comment Template

Name: Mark Major

Organization: ConocoPhillips Alaska, Inc.

### Statement of Specific Problem:

Completion of the 20 page coastal project questionnaire for "A" and B" listed activities is overly burdensome on applicants and regulatory agencies for these types of activities, which are categorically consistent or are general consistency determinations.

### Statutory or Regulatory Citation, if applicable:

11 AAC 110.205

### Explain your solution to the problem:

Create and implement use of a "short form" coastal project questionnaire (CPQ) for "A" and "B" listed activities. The current CPQ should only be required for projects that will undergo a consistency review.

### Explain how this would solve the identified problem:

Applicants would not have to spend numerous hours completing a CPQ for activities that are addressed via categorically consistent approvals or via general consistency determinations. Similarly, regulatory agencies would not have to review or otherwise deal with the current CPQ for these types of activities

### Describe how the change would potentially impact all ACMP participants:

No negative impacts to ACMP participants are foreseen from this suggested solution.